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**MAIL**

OPPEDAHL AND LARSON LLP  
P O BOX 5068  
DILLON, CO 80435-5068

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DIRECTOR OFFICE  
TECHNOLOGY CENTER 2100

In re Application of: Paul Giotta  
Application No.: 09/750,009  
Filed: December 27, 2000  
For: SCALEABLE MESSAGE SYSTEM

) DECISION ON RENEWED PETITION  
)) FOR APPLICANT'S STATE OF  
)) HEALTH UNDER M.P.E.P.  
)) §708.02(III)

This is a decision on the Petitioner's communication, filed September 25, 2003 to make the above-identified application special. This communication will be treated as a Renewed Petition for Applicant's State of Health under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02 (III) for the purpose of this decision. There is no fee for this petition.

The Petition is **GRANTED**.

A grantable petition to make an application special under 37 C.F.R. §1.102(c), M.P.E.P. §708.02 (III) requires evidence that the state of health of the petitioner is such that he or she might not be able to assist in the prosecution of the application if it were to run its normal course.

A review of the file history indicates that Petitioner's Petition filed August 28, 2003 was dismissed by the Decision on Petition for Applicant's State of Health dated September 16, 2003 because “[i]t is unclear from the evidence that the petitioner might not be able to assist in the prosecution of the application due to the petitioner's state of health, particularly, in light of petitioner's non-permanent medical leave. The petitioner should submit additional, sufficient evidence, explaining how the illness would prevent the petitioner from assisting in the prosecution of the instant application should he wish to continue to petition to make special under 37 C.F.R. §1.102(c).”

In response, a Renewed Petition for Applicant's State of Health was filed September 25, 2003. Petitioner submitted an additional medical certificate from Dr. Eugster which stated that “[Petitioner] suffers from a grave illness. The further progression is uncertain. [Petitioner's] further life expectancy is clearly limited under these circumstances.” As a result of Petitioner's chemotherapy treatment and clearly limited life expectancy, Petitioner would probably be

prevented from assisting in the prosecution of the instant application if it were to run its normal course.

For the above stated reasons, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for promptly examining this application out of turn according to the procedures set forth in M.P.E.P. §708.02.



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Bot LeDynh  
Special Programs Examiner  
Technology Center 2100  
Computer Architecture, Software, and Information Security  
(703) 305-0651